

4.4 AFFORDABLE Housing Incentives and Overlay District

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4.4.1 Purpose – The purpose of this Section is to enhance the public welfare by increasing the production of DWELLING UNITS AFFORDABLE to persons and households of LOW-INCOME and MODERATE-INCOME. In order to encourage utilization of the Town's remaining developable land in a manner consistent with local housing policies and needs, the Town encourages new housing developments to contain a proportion of the DWELLING UNITS AFFORDABLE to persons or households of LOW-INCOME and MODERATE-INCOME. Accordingly, the provisions of this Section are designed: (1) to increase the supply of housing in the Town of Acton that is available to and AFFORDABLE by LOW-INCOME and MODERATE-INCOME households; (2) to encourage a greater diversity of housing accommodations to meet the diverse needs of FAMILIES and other Town residents; and (3) to promote a reasonable mix and distribution of housing opportunities in residential neighborhoods throughout the Town.

4.4.2 Applicability

4.4.2.1 The provisions of this Section 4.4 may be utilized by any new development located within the AFFORDABLE Housing Overlay District, subject to the requirements and standards set forth in this Section 4.4.

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4.4.2.2 The AFFORDABLE Housing Overlay District is defined and bounded as shown on the "Affordable Housing Overlay District Map of the Town of Acton". The AFFORDABLE Housing Overlay District shall consist of two Sub-Districts:

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- a) Sub-District A— In the Sub-District A, the Planning Board, when issuing a Special Permit for an Open Space Development pursuant to Section 4.2, may authorize a Minor AFFORDABLE Housing Development as provided in Section 4.4.3.
- b) Sub-District B— In the Sub-District B, the Planning Board may authorize a Minor AFFORDABLE Housing Development as provided in Section 4.4.3, or alternatively, the Planning Board may allow by Special Permit a Major AFFORDABLE Housing Development as provided in Section 4.4.4.

4.4.2.3 Said AFFORDABLE Housing Overlay District is superimposed over all Districts established by this Bylaw and the regulations related to the AFFORDABLE Housing Overlay District are in addition to all other regulations set forth in this Bylaw. Where the requirements and standards within the AFFORDABLE Housing Overlay District, as set forth in this Section 4.4, differ from or conflict with the requirements and standards of the remainder of the Bylaw, the requirements and standards established for the AFFORDABLE Housing Overlay District shall prevail, except for standards established in the Groundwater Protection and Flood Plain Districts.

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4.4.2.4 The AFFORDABLE Housing Overlay District includes parcels of land which are not located in a Residential District and where residential USES are not otherwise allowed. For the purpose of utilizing the provisions of this Section 4.4 to generate AFFORDABLE housing, but under no other circumstances, residential USES shall be permitted on such parcels. In order to establish a reference point as a base line for any dimensional provisions set forth in this Section 4.4, the dimensional standards of the Residence 4 (R-4) District shall be assumed for such parcels.

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4.4.3 Minor AFFORDABLE Housing Developments – A Minor AFFORDABLE Housing Development shall be regarded as an additional development option, for land located in either Sub-District of the AFFORDABLE Housing Overlay District. Any Minor AFFORDABLE Housing Development shall be an Open Space Development following the provisions of Section 4.2 of this Bylaw, except as modified hereunder. The Planning

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Board, in issuing an Open Space Development Special Permit under Section 4.2, may authorize a Minor AFFORDABLE Housing Development, subject to the following provisions and requirements:

- 4.4.3.1 Number of DWELLING UNITS to be provided – The Planning Board may allow any new Open Space Development to have a greater number of DWELLING UNITS than would otherwise be allowed under the provisions of Section 4.2 and other provisions of this Bylaw, up to a maximum of fifty percent (50%) more. In order to receive such an increase or density bonus, a 15% portion of the DWELLING UNITS provided within an Open Space Development shall be AFFORDABLE, in accordance with one of the following methods or a combination thereof:

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Method of Providing AFFORDABLE DWELLING UNITS	Percentage increase in DWELLING UNITS allowed for each one percent (1%) of the total number of DWELLING UNITS which is AFFORDABLE*
Option 1: Donation to the Acton Housing Authority, in accordance with Section 4.4.6. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 5.0% in the total number of DWELLING UNITS.*	5.0%
Option 2: Sale to the Acton Housing Authority, in accordance with Section 4.4.6. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 2.5% in the total number of DWELLING UNITS.*	2.5%
Option 3: Sale, lease or rental to MODERATE INCOME households, in accordance with Section 4.4.6. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 1.75% in the total number of DWELLING UNITS.*	1.75%
Option 4: Cash payment to the Town of Acton or its designee in lieu of providing AFFORDABLE DWELLING UNITS. Such cash payment shall be of an amount equal to the cost of developing such DWELLING UNITS as evidenced by a Development Pro Forma, prepared by the developer and acceptable to the Planning Board. Such cash payment shall be reserved solely for the purpose of the purchase, rehabilitation and/or construction of LOW-INCOME and MODERATE INCOME housing. For each monetary amount paid under this option which is equal to the cost of developing 1.0% of the total number of DWELLING UNITS a developer shall receive a density bonus of 5.0% in the total number of DWELLING UNITS.*	5.0%
Option 5: An arrangement with the Town of Acton or its designee, whereby title to the property underlying the prospective AFFORDABLE DWELLING UNITS is donated to the Town of Acton or its designee and, in exchange, the Town of Acton or its designee will grant qualified purchasers a 99-year ground lease to such underlying property. Such ground lease shall contain provisions which limit the sale and occupancy of the affected AFFORDABLE DWELLING UNITS to LOW-INCOME or MODERATE INCOME households as defined in this Bylaw. For each 1.0% of AFFORDABLE DWELLING UNITS provided under this option, a developer shall receive a density bonus of 2.5% in the total number of DWELLING UNITS.*	2.5%

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* Results of percentage increases in DWELLING UNITS shall be rounded up to the next whole number to determine the total number of DWELLING UNITS. Percentages for AFFORDABLE DWELLING UNITS (or for DWELLING UNITS for which cash payment is made under Option 4) shall be calculated from this total number of DWELLING UNITS and results shall then be rounded up to the next whole number to determine the number of AFFORDABLE DWELLING UNITS to be provided (or the number of DWELLING UNITS for which cash payment is to be made).

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Example:

Development	without density bonus	with 10% density bonus	with 25% density bonus
Total number of DWELLING UNITS	25	27.5—rounded up to next whole number = <u>28</u>	31.25—rounded up to next whole number = <u>32</u>
Number of AFFORDABLE DWELLING UNITS provided under			
Option 1	0	0.56 rounded up to <u>1</u>	1.60 rounded up to <u>2</u>
Option 2	0	1.12 rounded up to <u>2</u>	3.20 rounded up to <u>4</u>
Option 3	0	1.60 rounded up to <u>2</u>	4.57 rounded up to <u>5</u>
Option 4	0	None / Cash payment for constructing 0.56, rounded up to <u>1</u> , DWELLING UNIT	None / Cash payment for constructing 1.60, rounded up to <u>2</u> , DWELLING UNITS
Option 5	0	1.12 rounded up to <u>2</u>	3.20 rounded up to <u>4</u>

Nothing herein shall be construed to prevent the voluntary inclusion of additional AFFORDABLE DWELLING UNITS at the developer's choice without exceeding the maximum density increase of 50%.

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~~4.4.3.2~~ ~~Adjustments of dimensional requirements — The Planning Board may allow a reduction in the Dimensional Requirements found in Section 4.2.3.3 for LOTS and STRUCTURES. The percentage reduction shall not exceed the percentage increase in the number of DWELLING UNITS permitted under Section 4.4.3.1 above.~~

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4.4.3.3 Two-FAMILY STRUCTURES – The Planning Board may allow the construction of two-FAMILY STRUCTURES which are designed to be consistent in character with the single FAMILY STRUCTURES in the same development. Such two-FAMILY STRUCTURES may be allowed at a rate of one two-FAMILY STRUCTURE in place of two single FAMILY STRUCTURES where the following conditions are met:

- ~~a) at least fifteen percent (15%) of the total number of DWELLING UNITS are AFFORDABLE under Options 1, 2, 3 or 5 of Section 4.4.3.1 above;~~
- b) the two-FAMILY STRUCTURES have no more than one (1) doorway facing the front yard area and shall, in terms of exterior appearance be compatible in design, and to the extent practicable, be indistinguishable from the single FAMILY STRUCTURES in the same development;
- ~~c) not more than fifty percent (50%) of the total number of STRUCTURES are two-FAMILY STRUCTURES, and~~
- ~~d) the number of AFFORDABLE DWELLING UNITS located in two-FAMILY STRUCTURES does not exceed two (2), or fifty percent (50%) of the total number of AFFORDABLE DWELLING UNITS, whichever results in the greater number of AFFORDABLE DWELLING UNITS to be located in two-FAMILY STRUCTURES.~~

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Where two-FAMILY STRUCTURES are part of the development plan, the Planning Board may permit the side yard requirement to be eliminated so as to allow the separate sale of individual DWELLING UNITS within a two-FAMILY STRUCTURE along with their respective accompanying yard area. Where two-FAMILY STRUCTURES are allowed, the combined LOT area upon which the DWELLING UNITS of the two-FAMILY STRUCTURE are located only needs to comply with the LOT area requirement as applicable to a LOT with a single FAMILY STRUCTURE located within the same Open Space Development. The Planning Board may establish design

guidelines for two-FAMILY STRUCTURES, require submission of architectural floor plans and side elevation plans for all proposed two-FAMILY STRUCTURES, and impose additional conditions affecting the design and location of two-FAMILY STRUCTURES. All privileges and exemptions provided to single FAMILY residential USES or BUILDINGS under this Bylaw shall also apply to two-FAMILY STRUCTURES permitted hereunder. The inclusion of two-FAMILY STRUCTURES shall not result in an increase in the number of DWELLING UNITS above the 50% density bonus permitted under Section 4.4.3.1.

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- 4.4.3.4 A Minor AFFORDABLE Housing Development shall be subject to the provisions and requirements of Sections 4.4.5 through 4.4.9.

- 4.4.4 Major AFFORDABLE Housing Development – A Major AFFORDABLE Housing Development shall be regarded as an additional development option ~~for land located in Sub-District B of the AFFORDABLE Housing Overlay District.~~ A Major AFFORDABLE Housing Development may be allowed by Special Permit from the Planning Board. Such Major AFFORDABLE Housing Development shall be governed by the following provisions:

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- 4.4.4.1 Affordability Provisions – A Major AFFORDABLE Housing Development must meet ~~one~~ of the following conditions:

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- a) a minimum of 25% of the total number of DWELLING UNITS within the Major AFFORDABLE Housing Development shall be sold, leased or rented to MODERATE-INCOME households in accordance with Sections 4.4.6;
- b) ~~a minimum of 30% of the total number of DWELLING UNITS within the Major AFFORDABLE Housing Development shall be sold to the Acton Housing Authority in accordance with Section 4.4.6, and/or be built on land under an arrangement, whereby title to the property underlying the prospective AFFORDABLE DWELLING UNITS is donated to the Town of Acton or its designee and, in exchange, the Town of Acton or its designee will grant qualified purchasers a 99-year ground lease to such underlying property. Such ground lease shall contain provisions which limit the sale and occupancy of the affected AFFORDABLE DWELLING UNITS to LOW-INCOME or MODERATE-INCOME households as defined in this Bylaw, or~~
- d) a minimum of 20% of the total number of DWELLING UNITS within the Major AFFORDABLE Housing Development shall be donated to the Acton Housing Authority in accordance with Section 4.4.6.

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~~The Planning Board may approve a proportionate combination of the above conditions. For instance, if 20% of the DWELLING UNITS are AFFORDABLE under condition a, then half of the affordability requirement is satisfied. Consequently, to meet the full affordability requirement, an additional 15% of the DWELLING UNITS would have to be AFFORDABLE under condition b. (half of 30%), or an additional 10% under condition c. (half of 20%), or additional DWELLING UNITS would have to be AFFORDABLE under a proportionate combination of conditions b. and c. Results of all percentages shall be rounded up to the next whole number to determine the number of AFFORDABLE DWELLING UNITS.~~

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- 4.4.4.2 Dimensional Provisions – A Major AFFORDABLE Housing Development, shall be subject to the following dimensional standards:

- a) Minimum TRACT OF LAND area: 80,000 square feet.
- b) ~~Minimum TRACT OF LAND FRONTAGE: Fifty (50) feet.~~
- c) Maximum density: ~~Five (5) DWELLING UNITS per acre, based on the total development site including Common Land.~~ The Planning Board may allow any new

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Development to have a greater number of DWELLING UNITS than would otherwise be allowed under the provisions this Bylaw, up to a maximum of one hundred percent (100%) more. In cases where residential uses are not allowed, up to 5 dwelling units per acre.

d) ~~Minimum TRACT OF LAND width: Fifty (50) feet.~~

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e) Maximum BUILDING height: Thirty six (36) feet.

f) Maximum number of DWELLING UNITS per BUILDING: Fifteen (15), however within an entire Major AFFORDABLE Housing Development the average number of DWELLING UNITS per BUILDING shall not exceed eight (8).

g) Minimum separation of BUILDINGS: Twenty (10) feet;

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h) Minimum area to be set aside as Common Land pursuant to the provisions for Common Land in Section 4.2: Thirty percent (30%) of the total development site.

i) Minimum perimeter buffer: Fifty (30) feet between any LOT line to abutting properties and any BUILDING within the development. Such buffer shall be landscaped or remain in its natural vegetation.

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4.4.4.3 Design Provision – Each DWELLING UNIT in a Major AFFORDABLE Housing Development shall have at least one separate ground floor entrance/exit, unless the Planning Board permits otherwise as part of its Special Permit. In addition, each STRUCTURE shall be compatible with the architectural style and scale of the neighborhood within which it is proposed. The Planning Board may establish design guidelines for Major AFFORDABLE Housing Developments. In granting a Special Permit, the Planning Board may impose conditions regarding dimensional controls and bulk of BUILDINGS to enhance the architectural compatibility with the surrounding neighborhood.

4.4.4.4 Other Provisions – The Planning Board, in granting a Special Permit for a Major AFFORDABLE Housing Development, may impose reasonable conditions to protect the environment, and the health, safety and welfare of the neighborhood, of residents in the proposed development, and of the general public. Such conditions may include, but shall not necessarily be limited to, requirements for the tertiary treatment of wastewater effluent, the location of wastewater effluent disposal, and necessary limitations on the total number of DWELLING UNITS to prevent negative impacts on the groundwater and other existing or potential public water resources. These will be imposed only when the Board of Health has determined that additional safeguards are required.

4.4.4.5 A Major AFFORDABLE Housing Development shall be subject to the provisions and requirements of Sections 4.4.5 through 4.4.9.

4.4.5 Development Standards for Major and Minor AFFORDABLE Housing Developments.

THESE SECTIONS SHOULD BE REVISED TO BE CONSISTENT WITH STATE STANDARDS, AS AMENDED.

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4.4.5.1 Location of AFFORDABLE DWELLING UNITS – AFFORDABLE DWELLING UNITS shall be dispersed throughout the development to insure a true mix of market-rate and AFFORDABLE housing.

4.4.5.2 Comparability – AFFORDABLE DWELLING UNITS shall in terms of exterior appearance be compatible in design with, and to the extent possible indistinguishable from, market-rate DWELLING UNITS in the same development. All internal design features shall be substantially the same as for market-rate DWELLING UNITS.

- 4.4.5.3 DWELLING UNIT size – Except as otherwise provided by the Planning Board, AFFORDABLE DWELLING UNITS shall contain two or more bedrooms and shall be suitable in type and design for FAMILY occupancy.
- 4.4.5.4 Rights and privileges – The owners or renters of AFFORDABLE DWELLING UNITS shall have all rights, privileges and responsibilities given to owners or renters of market rate DWELLING UNITS, including access to all amenities within the development.
- 4.4.5.5 DWELLING UNITS for Handicapped Persons – The Planning Board may require that some of the AFFORDABLE DWELLING UNITS be constructed so as to be suited for access and occupancy by a handicapped person or persons.
- 4.4.6 Affordability Requirements for Major and Minor AFFORDABLE Housing Developments.
- 4.4.6.1 Long term affordability – AFFORDABLE DWELLING UNITS shall be restricted to LOW-INCOME or MODERATE-INCOME use for the maximum period permitted by law, in one of the following ways:
- a) Donation of DWELLING UNITS to the Acton Housing Authority – DWELLING UNITS are donated to the Acton Housing Authority (A.H.A.), subject to the acceptance of the A.H.A.
 - b) Sale of DWELLING UNITS to the Acton Housing Authority – DWELLING UNITS set aside for sale to the Acton Housing Authority (A.H.A.) shall be offered at prices which do not exceed the lesser of (i) the general development costs of the particular DWELLING UNITS, or (ii) the current acquisition cost limits for the particular DWELLING UNITS under applicable state or federal financing programs. If the A.H.A. is unable to purchase the set-aside DWELLING UNIT(S) at the time of completion, the developer shall grant to the A.H.A. an exclusive right to purchase such DWELLING UNIT(S) within said cost limits, and shall lease or rent the DWELLING UNIT(S) to LOW-INCOME persons or households from a list prepared by the A.H.A., until such time as the A.H.A. can purchase the DWELLING UNIT(S). If, after two (2) years, the A.H.A. has not purchased the DWELLING UNIT(S), the developer may sell the DWELLING UNIT(S) as set forth under Option 5 of Section 4.4.3.1 or condition b. of Section 4.4.4.1, after making proper arrangements pursuant to such sections with the Town of Acton or its designee.
 - c) Sale, Lease or Rental of DWELLING UNITS to LOW-INCOME or MODERATE-INCOME Households – DWELLING UNITS set aside for sale, lease or rental to LOW-INCOME or MODERATE-INCOME households shall be restricted for occupancy by qualified households which meet the definition of "LOW-INCOME" or "MODERATE-INCOME" respectively, as set forth in this Bylaw.
- 4.4.6.2 Resale Controls – Each AFFORDABLE DWELLING UNIT created in accordance with this Section 4.4 shall have limitations governing its resale which must be satisfied before the property can be sold by its owners. The purpose of these limitations is to preserve the long-term affordability of the DWELLING UNIT and to ensure its continued availability to LOW-INCOME or MODERATE-INCOME households. The resale controls shall be established through deed or lease restrictions or otherwise, subject to the approval of the Planning Board, and shall be in force for such maximum period of time from the date of initial sale as may be permitted under applicable state law governing such restrictions. The resale controls shall be established in such a manner so as to be enforceable by the Town of Acton, and renewable by the Town of Acton through standard procedures provided by applicable state law.
- 4.4.6.3 Maximum Sales Price for AFFORDABLE DWELLING UNITS.

- a) Initial Sale – The maximum initial sales price shall be set at the most recently published median FAMILY income for the Boston Primary Metropolitan Statistical Area times a maximum multiplier of two and one-quarter (2.25), adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below.
- b) Resales – Maximum sales prices at subsequent resales shall be limited to the median FAMILY income for the Boston Primary Metropolitan Statistical Area as last published prior to the resale, times the same multiplier used at the initial sale, adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below, plus the cost of documented capital improvements, other than bedroom additions, garages, and improvements detached from the DWELLING UNIT, at a maximum rate of one percent (1.0%) of the DWELLING UNIT purchase price per year. However, the resale price after inclusion of such capital improvement costs shall in no case exceed one hundred and twenty percent (120%) of the median FAMILY income for the Boston Primary Metropolitan Statistical Area as last published prior to the resale, times a multiplier of two and one-quarter (2.25), adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below. These resale limitations shall be recorded as part of the deed restriction.

4.4.6.4 Maximum rental price for AFFORDABLE DWELLING UNITS – The maximum gross monthly rent, including the estimated cost of utilities to be paid by the tenant, shall be twenty percent (20%) of the most recently published median household income for the Boston Primary Metropolitan Statistical Area, divided by twelve (12), adjusted for DWELLING UNIT size in accordance with Section 4.4.6.5 below. The schedule of utilities most recently published for the Acton area by the U.S. Department of Housing and Urban Development for use in federal rent subsidy programs shall be used to estimate the cost of utilities to be paid by the tenant.

4.4.6.5 DWELLING UNIT size adjustments – Maximum sales and resales prices and gross rents of AFFORDABLE DWELLING UNITS shall be further adjusted for DWELLING UNIT size by multiplying the amounts computed under Sections 4.4.6.3 and 4.4.6.4 above by the applicable adjustment factor as follows:

<u>DWELLING UNIT Size</u>	<u>Adjustment Factor</u>
1 or 2 Bedroom	0.90
3 Bedroom	1.00
4 or more Bedroom	1.10

4.4.6.6 Right of first refusal – All deed restrictions and/or restrictive covenants for AFFORDABLE DWELLING UNITS shall require that the owner grants a Right of First Refusal to the Town of Acton or its designee at the restricted resale value, and that the owner provides notice of such Right of First Refusal to the Town of Acton or its designee prior to selling his/her DWELLING UNIT. If the Town of Acton or its designee fails to exercise its Right of First Refusal by signing a Purchase and Sales Agreement within thirty (30) days of receipt of the owner's notice, the owner may thereafter proceed to sell the AFFORDABLE DWELLING UNIT at the restricted resale value to any person or household who meets the applicable income guidelines. The owner, in consultation with the Town of Acton or its designee, shall make a diligent effort to locate eligible purchasers. If no eligible purchaser is found after the expiration of ninety (90) days, the owner may proceed to sell the AFFORDABLE DWELLING UNIT to any purchaser of his or her choice, provided however that any deed restrictions, covenants, agreements and/or other mechanisms restricting rent levels and resale prices shall remain in effect.

4.4.6.7 Relationship to Public Funding Programs – Applicants may elect to utilize public subsidies in connection with the AFFORDABLE DWELLING UNITS required by this

Section 4.4. Such election is subject to the DWELLING UNIT price limitations of the funding program and the approval by the funding agency.

- 4.4.6.8 Ratio of DWELLING UNITS to be Set-aside for LOW-INCOME or MODERATE-INCOME Households – The ratio of the number of DWELLING UNITS to be set-aside for LOW-INCOME households to the number of DWELLING UNITS to be set-aside for MODERATE-INCOME households, and the Option or combination of Options provided under Section 4.4.3.1, and the conditions or combination of conditions provided under Section 4.4.4.1, shall be subject to the approval of the Planning Board as a part of the Special Permit.
- 4.4.7 Application Requirements – Applicants for a Major or Minor AFFORDABLE Housing Development shall submit a plan and application that meet the requirements of this Section 4.4, including an indication of the number, type and location of all AFFORDABLE DWELLING UNITS; a complete Development Pro Forma including an indication of all costs to the buyers or renters of AFFORDABLE DWELLING UNITS; identification of proposed governmental subsidy arrangements; and all other information which may be required by the Acton Planning Board under the Rules and Regulations for Open Space Developments (Minor AFFORDABLE Housing Developments) or under the Rules and Regulations for Major AFFORDABLE Housing Developments, as applicable.
- 4.4.8 Additional Requirements
- 4.4.8.1 Local Preference – To the maximum extent practical and subject to applicable Federal or State financing or subsidy programs, the AFFORDABLE DWELLING UNITS shall be initially offered to qualified LOW- and MODERATE-INCOME households that meet local preference criteria established from time to time by the Town of Acton or the Acton Community Housing Corporation. Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee. The local preference restriction shall be in force for 120 days from the date of the first offering of sale or rental of a particular AFFORDABLE DWELLING UNIT. The applicant shall make a diligent effort to locate eligible purchasers or renters for the AFFORDABLE DWELLING UNIT who meet the local preference criteria and the applicable income requirements.
- 4.4.8.2 Where an AFFORDABLE Housing Development does not generate a sufficient number of AFFORDABLE DWELLING UNITS to satisfy, in terms of whole DWELLING UNITS, all of the local preference requirements as set forth herein, the AFFORDABLE DWELLING UNITS in such a development shall be offered to eligible purchasers based on the following priorities: first - current residents pursuant to 4.4.8.1.a. (up to 30%); second - persons employed within Acton pursuant to 4.4.8.1.b. (up to 10%); third - persons who previously resided in Acton pursuant to 4.4.8.1.c.
- 4.4.8.3 Persons who both reside and work in the Town of Acton shall be counted as residents only.
- 4.4.8.4 Residency in the Town of Acton shall be established through certification by the Town Clerk based on the Town Census, voter registration, or other acceptable evidence.
- 4.4.8.5 These restrictions shall be in force for a period of four (4) months from the date of the first offering of sale or rental of a particular DWELLING UNIT to the public. The Town of Acton or its designee, or the developer, as applicable, shall make a diligent effort to locate eligible purchasers and/or renters who meet the above qualifications as well as the applicable income requirements.

- 4.4.8.6 Results of all percentages herein shall be rounded to the next whole number to determine the actual number of AFFORDABLE DWELLING UNITS to be offered to each of the preference groups.
- 4.4.8.7 Purchaser/tenant selection - Procedures for the selection of purchasers and/or tenants shall be subject to approval by the Town of Acton or its designee.
- 4.4.9 Enforcement
- 4.4.9.1 Restrictive documents – AFFORDABLE DWELLING UNITS shall be rented or sold subject to applicable deed covenants, contractual agreements and/or other mechanisms restricting such features as the USE and occupancy, rent levels, and sales prices of such DWELLING UNITS to assure their affordability.
- 4.4.9.2 Enforcement upon Transfer of DWELLING UNIT - Nothing in this Section 4.4 shall be construed to cause eviction of a home owner or tenant of an AFFORDABLE DWELLING UNIT due to loss of his/her eligibility status during the time of ownership or tenancy. Rather, the restrictions governing an AFFORDABLE DWELLING UNIT shall be enforced upon resale, re-rental or re-lease of the AFFORDABLE DWELLING UNIT, or, in the case of a rental DWELLING UNITS, by such other appropriate mechanism as the Planning Board may specify in its Special Permit. Any mechanism and remedy to enforce the restrictions governing an AFFORDABLE DWELLING UNIT shall be set forth in a deed covenant or other appropriate recordable document.
- 4.4.9.3 All Restrictions Remain in Effect – Nothing in this Section shall be construed to allow any deed restrictions, covenants, agreements and/or other mechanisms restricting such items as the use and occupancy, rent levels, and resale prices of AFFORDABLE DWELLING UNITS, and the enforcement thereof to expire prior to any maximum limitations set forth by applicable state law.
- 4.4.9.4 Timing of commitments – All contractual agreements with the Town of Acton and other documents necessary to insure compliance with this Section shall be executed prior to and as a condition of the issuance of any special permit required to commence construction.
- 4.4.9.5 Timing of construction – As a condition of the issuance of a special permit under this Section, the Planning Board may set a time schedule for the construction of both AFFORDABLE and market-rate DWELLING UNITS. No Certificate of Occupancy shall be issued for any market-rate DWELLING UNITS in a development subject to the requirements of this Section until there have been issued Certificates of Occupancy for AFFORDABLE DWELLING UNITS in an amount equal to the percentage of AFFORDABLE DWELLING UNITS which are to be constructed in the development. For instance, if twenty percent (20%) of the development is to consist of AFFORDABLE DWELLING UNITS, and ten (10) market-rate DWELLING UNITS are seeking Certificates of Occupancy, at least two (2) AFFORDABLE DWELLING UNITS shall have received Certificates of Occupancy.

(And from PCRC section 9 -)

- 9.6.2.1 Number of DWELLING UNITS – The maximum number of DWELLING UNITS permitted in a PCRC shall be 80% of the following, rounded up to the next integer:
- a) In the R-2 District: 1 DWELLING UNIT per 20,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.

- b) In the R-4 and R-8/4 Districts: 1 DWELLING UNIT per 40,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.
- c) In the R-8 and R-10/8 Districts: 1 DWELLING UNIT per 80,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.
- d) In the R-10 District: 1 DWELLING UNIT per 100,000 square feet of area of the TRACT OF LAND on which the PCRC is located, including the Common Land.
- e) In the AFFORDABLE Housing Overlay District - Sub-Districts A and B: The number of DWELLING UNITS may be increased pursuant to the formulas provided in Section 4.4.3.1 and subject to the requirements of Sections 4.4.5, 4.4.6, 4.4.7, 4.4.8 and 4.4.9. The inclusion of AFFORDABLE DWELLING UNITS in compliance with the above referenced Sections of this Bylaw shall be authorized under a Special Permit for a PCRC.